

GOVERNMENT BY INJUNCTION TERM GIVEN GALLAGHER ACTION

W. L. Walsh, K.C., Counsel for Defendants in Case Gallagher et al. vs. Armstrong et al. Replies to Argument of O. M. Biggar, Counsel for Plaintiffs—Declares Ratepayers Might Prevent Disposal of Street Car Combines of the Bonds of Reason as Those Advanced on Behalf of Commissioner Bouillon.

"If an action such as this can be maintained by a ratepayer, it seems impossible to say where the principle of government by injunction is to stop," declares W. L. Walsh, K.C., in his reply to the written argument of O. M. Biggar, counsel for the plaintiffs in the action, Gallagher et al. vs. Armstrong et al., which involves the removal of Commissioner Bouillon by the city council.

Mr. Walsh contends that the sole basis of the plaintiff's claim is that upon the removal of Commissioner Bouillon some one less vigilant of the public interests might be appointed in his stead.

"If a street car conductor is threatened with dismissal," argues Mr. Walsh, "urging the lack of proper ground for the action, a ratepayer could ask the court to stop the threatened dismissal because the council might appoint as his successor a man who would either treat the fare or allow the aldermen free transportation on the cars. It was equally to be seen when it was that there was a necessity of the ratepayer general being a party to any action against the corporation, which involve only public rights or interests."

"The plaintiff's claim can be placed upon no higher ground than this, that upon Bouillon's dismissal some person less vigilant of the interests of the ratepayer might be appointed in his position, and that surely is not sufficient to entitle him to maintain the action. The Edmonton public is as much concerned in the question as are the ratepayers as a class."

Under the head of general merits the reply states: "While it may be conceded that the commission system established by the Edmonton city council in its experiment in municipal administration of considerable importance, it surely cannot be seriously argued that its retention was to vest the administrative branch of the government in an autocrat who could disregard the interests of the public with impunity and the policy of the legislative branch and defy the power that created him."

"It is true that greater safeguards are thrown around the appointment of a commissioner, and his removal from office is more difficult than in the case with the ordinary servants of the municipality. This is so because the commissioner exercises are of more importance than those of the ordinary municipal officer. Notwithstanding this, the council has the power of appointing and removing power. He holds office during the pleasure of the council."

"The power of removal is a cause as he shall deem sufficient is a power without hearing." (Citation, Attorney General vs. Cahill, 183 Mass. 18.)

"Unless the dismissal could only be had for cause the council was under no obligation to give the commissioner notice of its complaints and a hearing of the same. If on the other hand the dismissal could only be effected for cause the law seems to be clear that such notice and hearing should be given. In that event the defendant's contention that what took place at the meeting of the committee of the whole council on the morning of Feb. 21, was a sufficient notice to Com. Bouillon of the complaint and a sufficient investigation of them to justify the subsequent proceedings. The inference from the evidence is irresistible that he knew of the investigation which was on foot and of the complaint that had been made and that the object of this meeting was to take up the same with him and thresh them out. A fair summary of what took place at that meeting is that which was offered as an opportunity to clear and explain complaints that had been formulated as to his administration of the utilities and to take time to answer any question which he was not able to answer on the spot. That he refused this offer and declared his intention to submit to any inquiry by the council or make his answer before any tribunal other than a judicial one and that the attitude of the defendant and the attitude adopted by him towards the council rendered any further inquiry by it an impossibility. If he had a right to this hearing he valued it by what took place at this hearing."

An Absurd Conclusion. Under the heading of interests under the charter, Mr. Walsh contends: "The proviso that no shareholder shall vote on any question affecting the company is clearly intended to prohibit an alderman from voting in respect only of dealings had or contracts made with the city. To extend its meaning beyond that would lead to an absurdity. A company which is the owner of property in a municipality is affected by nearly every act that the council does. It is affected by the rate of taxation imposed by the council, the character and qualification of the man who is appointed assessor, by every expenditure which leads to increased taxation. If the argument of the defendant is sound, it must be carried to its logical conclusion, that aldermen of the class in question could not vote on the above or kindred subjects because they are questions affecting the company. If the dismissal of a commissioner any more a question affecting the company than any question of the other questions above put?"

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CRUEL TREATMENT

Inhuman Suffering Fata Dying Boy on Train and Sends Him Off.

Minneapolis, March 30.—(Wire up by physicians and dying with tuberculosis, Earl Sharp, 17 years old, barely able to walk, was turned from his sick bed in his mother's home in Graceville, Minnesota, by his stepfather last Tuesday, and his wife, who was with him, took care of him when he collapsed in the Union station Tuesday night.

Tuesday Morning in Cruelty. Toronto, March 30.—The Toronto Humane Society today decided to prosecute all owners of dooked horses where the evidence of eye-witnesses shows that the docking can be obtained. There is no specific law prohibiting docking, but the society will have a legal provision against cruelty to animals, found in the criminal code.

New Toronto Harbor Board. Ottawa, March 30.—A bill creating a new harbor board at Toronto and giving it wide powers to control the senate railway committee today without amendment. The board will be composed of five members, one of whom shall be a member of the board of trade, one of the Federal Government and three of the City Council. It will control and regulate absolutely the water front.

Result of Disqualification. If these defendants are disqualified from voting on the dismissal of Mr. Bouillon, the same disqualification will exist with reference to every other matter which the council takes the slightest interest in municipal affairs. If the aldermen whose disqualification is sought are held to be disqualified the result will be that Mr. Bouillon cannot, under any circumstances, be relieved of office by the city council as at present constituted. For the vote which is required to bring about this dismissal is two-thirds of all the members of the council, and with these disqualified there would not be enough left to bring about his removal, even if the remaining aldermen were unanimous in their view that he should be removed.

Mr. Walsh points out that if the council were to resign at this time, Mr. Bouillon's removal or retention would be a matter of course with the result that the successful candidate would come into office pledged to dismiss the defendant.

Mr. Biggar will make a written reply to Mr. Walsh's argument and the whole of the argument on both sides will then be submitted to Mr. Justice Stuart, who will give his decision of the case. Mr. Justice Stuart is this week sitting in the court on banc which on the conclusion of the season will deliver judgment in the cases which have been heard. It is consequently probable that the decision in this case will be given before next week.

Nothing But a Corpse. Nothing but a corpse tenanted the desolated shack, whose now quiet back had bowed, left for the record of the happenings of the winter. According to this diary which Cummings left for his partner, the snow about four inches of snow today will further retard operations for a few days, but the weather is generally as pleased at the delay. The leading grain growers expect to get the crop in by the first of the first week in April. The recent cold weather is regarded as a blessing, as it has helped to bring out gradual with splendid soaking. The water has gone right in instead of running off, and has done some good in interrupting the mild weather. A pretty careful estimate seems to warrant the expectation that the crop will be fifteen per cent.

At Portage La Prairie. Portage La Prairie, March 30.—The cold weather of the past week has set back spring operations, but the fields in the country are rapidly drying up and if the weather turns warm the spring work will start in about a week. The roads have been bad in the country for some time and it has been almost impossible for the farmers to get around but they are all ready and will be prepared to jump into the seedling when the weather breaks. Practically all the land in this district was fall plowed and the acreage under crop will be about the same as last year.

Immigration Hall at Tisdale. Tisdale, Sask., March 29.—Word has arrived from Ottawa that the Government intends holding an immigration hall here this spring. This is greatly needed in view of the large influx of settlers coming into this part of Carleton Place Valley.

BRITAIN NO RIGHT TO MIDDLE WITH CANADA. Ottawa, March 30.—A visit to the capital today is Sir John A. Macdonald, leader of the great English publishing house, which issues the Strand Magazine. He is expected to discuss general matters, but when asked to express an opinion on the subject of the tariff, he said he has no right to interfere in Canadian politics and Canada should be left to its own devices.

May Admit Strike Breakers. Winnipeg, March 30.—The Winnipeg Electric Street Railway Company's union employees are in session tonight to discuss the advisability of

DANGER OF EARLY SPRING IS PAST

CROP REPORTS SHOW GROUND TO BE IN EXCELLENT CONDITION

Winnipeg, March 30.—The danger of a premature spring has been avoided by the cold snap of the past week, and the ground is now in excellent condition. The reports from the various parts of the province west of the Red River show that the ground is in excellent condition. The reports from the various parts of the province west of the Red River show that the ground is in excellent condition.

Officials of the Department of Justice assert that the Pennsylvania, the Baltimore & Ohio and the Norfolk & Western railroads raise most prominent in the trust. It is also asserted that the Pennsylvania, through enormous holdings, listed under dummy names, controls the Standard Oil and the Tobacco trusts, enormous as they are, are dwarfed by the holdings of the coal lands.

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BILLION DOLLAR COMBINE IN STATES

Powerful Financiers Will Be Prosecuted—Trust Reported to Have Been Formed to Control Output of Coal.

Washington, D.C., March 31.—As the result of long investigation into what agents of the Department of Justice declare is the biggest trust in the world, announcement was made today that criminal prosecutions of half a dozen of the most powerful financiers in the United States are to be begun in the near future by the Federal government.

The government, it is alleged, will try to show that this gigantic combination has for years secretly used its power to extort enormous profits from the coal trade, throttling all competition by withholding coal from the consumers and by the trust. Dummy directors and secret alliances between the railroads and the mining companies are reported as the basis of the combine. The subsidizing of small railroads and the buying up of enormous coal holdings are said to have been the steps by which the trust gained control of the coal situation.

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CALGARY PAYS A MUCH HIGHER PRICE FOR ITS ARTIFICIAL GAS

Price at Which City Council Offers Franchise to International Heating and Lighting Company's 27 Cents Lower Than Price Paid at Present Time in the Southern City, - Impossible to Use Edmonton Coal in Manufacture of Commercial Gas, Says Representative of Company.

C. S. Eaton, representative of the International Heating and Lighting Company, of Cleveland, Ohio, the company whose application for a non-exclusive artificial gas franchise has been favorably considered by the city council, and on the recommendation of the industrial committee, instructions given to the city solicitor and the city commissioners to draw up an agreement between the city and company, which is to be submitted to the ratepayers for approval at a later date, stated to the Bulletin yesterday that he was not at all certain that his principals would agree to accept a franchise at the price named by the committee.

"The price of \$1.48 1-2 offered by the committee," said Mr. Eaton, "is a very material reduction in the price offered by the company, which is \$1.62. I think the council is trying to drive two bargains at once. The average price charged for gas throughout the whole of the Dominion of Canada, including all the large cities, is \$1.80 maximum and \$1.50 minimum. You will see, therefore, that besides asking for a franchise and deliver gas at a lower price than the present average price obtaining in Canada, the committee has failed to take into consideration the additional fact that the prices in other cities at the present time represent in every case a well developed business."

Gas Now Costs \$1.75 in Calgary. "The initial price at which gas in Calgary was \$2.50 per thousand. The price at the present time after seven years of operation is \$1.75."

"The maximum price charged at the present time in Vancouver is \$2 per thousand. In Winnipeg the original price for gas was \$4.50. Until only a few years ago the price at which gas was sold in Calgary was \$2.50 per thousand. The price at the present time after seven years of operation is \$1.75."

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SASH AND DOOR FACTORY DESTROYED AND TOWN THREATENED

Montreal, March 28.—Pointe aux Trembles was threatened tonight by a fire which destroyed the sash and door factory of Louis Beaudry, and spread to a new two-story building adjoining, which was to have been occupied in a couple of weeks by the Eastern Townships Bank.

Owing to the utter lack of fire fighting apparatus and the high wind blowing it was feared at first that the entire village was in jeopardy and a message was sent to Montreal and a message was sent to Montreal and a message was sent to Montreal.

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